

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ELIUD GARCIA ORTIZ,
JOSE LUIS MACIAS,
JUAN RIVERA AND
JOSE PACHECO,

Plaintiffs

V.

NABORS INDUSTRIES INC.,

Defendant

[illegible]

Civil Action No. 4:12 –CV-00544

**JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENT
AND ENTRY OF FINAL JUDGMENT DISMISSING LAWSUIT WITH PREJUDICE**

Defendant Nabors Industries, Inc. (“Defendant”), and Plaintiffs Eliud Garcia Ortiz, Jose Luis Macias, Juan Rivera, and Jose Pacheco (together, “Plaintiffs”) jointly move for the approval of their written Settlement Agreement (“Agreement”) and further move this Court for entry of final judgment dismissing this action in its entirety with prejudice, as follows:

1. Plaintiffs have alleged that they were employed by Defendant and that Defendant violated the Fair Labor Standards Act, 29 U.S.C. § 201 *et. seq.*, as amended (“FLSA”), by denying them payment for overtime hours. Defendant has denied these claims in their entirety. To avoid further litigation costs, Defendant and Plaintiffs have agreed to settle the claims in this lawsuit. Both parties are represented by counsel.

2. Because the FLSA's provisions are mandatory, employees' claims for back wages or overtime may not be compromised absent either supervision by the Secretary of Labor, *see* 29 U.S.C. § 216(c), or approval by the court. *See Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353 (11th Cir. 1982). The Fifth Circuit has recognized the res judicata effect of a

court-approved settlement of FLSA claims, where “a bona fide dispute of both law and fact was involved in the litigation, and [] the proposed settlement agreed upon was fair and equitable to all parties concerned.” *Jarrad v. Southeastern Shipbuilding Corp.*, 163 F.2d 960, 961 (5th Cir. 1974).

3. Here, a bona fide dispute exists between the parties. Specifically, the parties dispute whether Plaintiffs were employed by Defendant, the number of hours worked by Plaintiffs, and the amount of overtime pay they allege they earned. The parties agree that the terms of the Agreement are fair and equitable. The settlement amount takes into account the number of overtime hours claimed by Plaintiffs, despite Defendant’s contention that it never employed Plaintiffs. The Agreement also includes, in part, a reasonable amount for attorneys’ fees and costs, which both Plaintiffs and Plaintiffs’ attorneys agree is also fair and equitable based on the amount of time expended by Plaintiffs’ attorneys in connection with Plaintiffs’ claims.

4. Because the proposed settlement agreed to by the parties is a fair and equitable compromise of a bona fide dispute, Defendant and Plaintiffs request that the Court approve the settlement agreement and enter a final judgment dismissing the case, in its entirety, with prejudice. An Agreed Order and Final Judgment, approved by the parties, has been submitted.

Respectfully submitted,

/s/ Annie Basu

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of December 2012, a copy of the foregoing document has been filed electronically through the Court's CM/ECF System and was automatically copied to Plaintiffs through the Court's electronic filing system:

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